

I think the Under Secretary should apply some common sense exemptions to the CHRC for airmen.

Authority for implementing exemptions is contained in 49 USC 114 paragraphs (1) (1) and (r) as amended by pub. l. 107-71:

``(1) Regulations.--

``(1) In general.--The Under Secretary is authorized to issue, rescind, and revise such regulations as are necessary to carry out the functions of the Administration.

``(r) Authority To Exempt.--The Under Secretary may grant an exemption from a regulation prescribed in carrying out this section if the Under Secretary determines that the exemption is in the public interest.''.

Reasoning is supplied by paragraph (1) (3):

``(3) Factors to consider.--In determining whether to issue, rescind, or revise a regulation under this section, the Under Secretary shall consider, as a factor in the final determination, whether the costs of the regulation are excessive in relation to the enhancement of security the regulation will provide.

Individuals most eligible for an exemption would be:

1. Airmen employed by part 135 or part 121 carriers who are also military reserve or National Guard members. Military members are subject to the UCMJ as well as civilian law, and have sworn to protect and defend the Constitution. Military aviators have been investigated and fingerprinted by the U.S. government because must have a security clearance at the level of at least "Secret" to fly tactical aircraft. It makes little sense and is not cost effective to conduct a CHRC on an individual who has already been investigated and is trusted to fly security patrols in armed combat aircraft on the days he is not flying airliners.
2. Airmen employed for a predetermined time by part 135 or part 121 carriers. Note that no hijacker has ever been an employee of a domestic carrier. Those who have been entrusted with the lives of their passengers for a number of years need not be suspect now. Again, it makes little sense and is not cost effective to conduct a CHRC by 6 December on an airline pilot with a 30-year career and who will retire due to the age 60 rule on 7 December.
3. Airmen of a predetermined age who are U.S. citizens. Most professional aviators do not fit the profile of a Muslim male extremist between the ages of 17 and 40.

Public safety is not adversely affected by exempting such individuals. The exemptions would lessen the burden on the individual, the carrier, and the governmental agencies involved in a CHRC. Clearly, with respect to such individuals, the costs of the regulation are excessive in relation to the enhancement of security the regulation will provide.

The opportunity for suggesting legislative relief prior to the implementation deadline is granted to the Under Secretary on 3 July 2002 by 49 USC 109 (b):

(b) Report.-- Not later than 6 months after the date of enactment of this Act, and annually thereafter until the Under Secretary has implemented or decided not to take each of the actions specified in subsection (a), the Under

Secretary shall transmit to Congress a report on the progress of the Under Secretary in evaluating and taking such actions, including any legislative recommendations that the Under Secretary may have for enhancing transportation security.